

REMARKS

The Examiner's action dated April 24, 2008, has been received, and its contents carefully noted.

It is noted that claims 3-6 continue to be withdrawn from consideration. However, the original election of species requirement identified the elected Group III, as containing claims 1-2 and 5-14. It would appear that, in view of the reason giving for the election requirement, claims 5 and 6 should properly have been considered to be included within the elected group. Undersigned does not believe that the Examiner can ignore claims included in an elected group without issuing a new restriction requirement.

It is possible that, at the time the election was made, applicants considered claims 5 and 6 to be of particular importance and applicant had every reason to believe that, based on existing PTO rules, those claims would be examined.

Therefore, applicants are entitled to a first action on the merits on claims 5 and 6.

In order to advance matters, the application claims have been amended to more clearly define the contribution of the invention over the prior art and the prior art rejection is traversed at least for the reason that the novel structure

now defined in the claims, and particularly in parent claim 1, is not disclosed in or suggested by any combination of the teachings of the applied references.

Independent claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Clarey '713 (hereinafter *Clarey*) in view of Dye. The applicants respectfully traverse this rejection, and submit that claim 1 contains at least three limitations that are not taught or suggested by the cited patents.

Claim 1 contains a limitation that the inflatable portion of the splint is "structured to cover the body part from three sides, leaving one side uncovered". Neither *Clarey* nor Dye teaches or suggests this limitation.

Clarey teaches an inflatable splint that covers the body part from all of its sides (see, for instance, Fig. 2). Moreover, the purpose of *Clarey*'s invention is to fully encase an injured leg with an air-pressure splint. Thus, modifying *Clarey* to meet the above claim limitation would be contrary to the teachings of that reference because it would make the modified splint non-satisfactory for its intended use.

It is noted that Dye was relied on only for its disclosure of ventilation holes. This element has been deleted from application claim 1 because it is not believed necessary to distinguish over the prior art. In view of this

deletion, it is believed that only the applicability of the Clarey patent to amended claim 1 need be considered.

The applicants submit that the above-cited limitation is not taught or suggested by any of the cited patents, and that modifying the main reference to include the above-cited limitation would make the reference non-suitable for its intended purpose. The applicants respectfully submit that even if only because of these reasons, amended claim 1 is patentable over the cited patents.

Furthermore, claim 1 contains a limitation that the splint comprises "at least one gas pressure source device connected to said splint". The Examiner stated that Clarey discloses this limitation in that the tubes can be inflated orally (page 2 of the Office Action, penultimate line). The applicants respectfully traverse.

The applicants respectfully submit that oral inflation is not a teaching or a suggestion to have a gas pressure source as a component of the splint. The splint taught by Clarey does not comprise the mouth or lungs of the person that inflates the tubes orally, and accordingly, Clarey does not teach a splint comprising a gas pressure source device. A human being cannot be considered to correspond to a claimed structural component. In addition, the office action

did not suggest any rationale to modify Clarey to include a gas pressure source as a component of the splint.

Thus, the applicants respectfully submit that even if for this reason alone, the Office Action did not present a *prima facie* case of obviousness against claim 1.

Still further, claim 1 contains a limitation that when the inflatable tubes are inflated, the splint "fits the structure of the body part". The applicants respectfully submit that Clarey does not teach or suggest a splint that fits the structure of the body part.

The Examiner stated that fitting the body part is shown by Clarey in Fig. 2. However, the applicants disagree, and contend that Fig. 2 shows the opposite: that Clarey's splint does not fit to the structure of the leg. In Clarey's device, the splint, for example, is far from touching the knee, and thus does not fit to the structure of the leg.

This point is emphasized in new claim 23, which contains a limitation that the inflatable portion of the splint is shaped "to follow closely the shape of the body part when inflated". Clarey does not teach or suggest a splint with an inflatable portion which, when inflated, follows closely the shape of the body part. On the contrary, Fig. 2 shows that, when inflated, Clarey's splint is far from the body part in some places, and near it in others.

To summarize, the applicants submit that claim 1 contains at least three limitations not taught or suggested by the cited references, and that in view of these differences between the claim and the cited patents, the claim is patentable.

All the other claims depend, directly or indirectly, from claim 1, and are therefore patentable at least by virtue of being dependent from an allowable base claim.

Since the claims that have been withdrawn from consideration depend from claim 1, and claim 1 is believed to define patentably over the applied references, it would be appropriate to withdraw the election of species requirement, and allow all of the pending claims, and it is requested that this be done.

If the above amendment should not now place the application in condition for allowance, the Examiner is invited to call undersigned counsel to resolve any remaining issues.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By /jmf/
Jay M. Finkelstein
Registration No. 21,082

JMF:smb

Telephone No.: (202) 628-5197

Facsimile No.: (202) 737-3528

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